



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES
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VALERIE HARR
Director

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

S.M.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
& HEALTH SERVICES and
CAMDEN COUNTY BOARD OF
SOCIAL SERVICES,
RESPONDENTS.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 4755-2015

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this case, including the Initial Decision, the OAL case file and the documents filed below. Petitioner filed exceptions in this matter. Procedurally, the time period for the Agency Head to file a Final Agency Decision is January 4, 2016, in accordance with N.J.S.A. 52:14B-10, which requires an Agency Head to adopt, reject or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on November 20, 2015.

Petitioner was denied benefits due to excess resources. Specifically, Petitioner had a TD Bank account ending in #2144 with her son that had a balance in excess of \$70,000. The account was the depository for Petitioner's Social Security check as well as other miscellaneous deposits. The account was titled as Petitioner "or" her son, which permits either party access to the entire amount.¹

Petitioner's son and Power of Attorney claimed that \$59,044.71 of the TD account was the 2011 close out from another joint account he shared with his mother. That final check of \$59,044.71 was dated August 25, 2011 and made out only to Petitioner. ID at 3 and R-6. The son further claimed that the funds stemmed from the 2007 sale of a property he owned in his own name. ID at 3.

The Initial Decision determined that Petitioner had not demonstrated that the funds were not her resource. There was no credible evidence or documentary trail that the funds in the TD account belonged to Petitioner's son. The ALJ specifically noted that the son's credibility was at issue as he "became confrontational and defensive during cross examination" about the source of the funds. ID at 5.

I have reviewed the case file and concur with the ALJ's determination. The documents presented do not demonstrate that the TD bank account was funded from the son's own assets. There is no dispute that Petitioner used the account to deposit her Social Security checks and withdraw funds for her own expenses. ID at 5 and R-5.

¹ "If the funds in a joint account belong to one person, list that person's name first on the account and give that person's SSN to the payer. (For information on who owns the funds in a joint account, see *Joint accounts*, later.) If the joint account contains combined funds, give the SSN of the person whose name is listed first on the account. This is because only one name and SSN can be shown on Form 1099." http://www.irs.gov/publications/p17/ch07.html#en_US_2013_publink1000171410.

Thus, the account was properly included in determining Petitioner's Medicaid application.

In exceptions, Petitioner claims she was not given "the opportunity to rebut the presumption of ownership of the funds in the joint account" and requests that the matter be remanded to Camden County to give Petitioner this opportunity. This a curious argument to make after Petitioner, who is represented by counsel, had a fair hearing on the issue of the account's ownership; was given the chance to present documents and testify about the ownership; submitted an affidavit from her Attorney-in-Fact as well as a post hearing brief on the issue of ownership. However, the record shows that Camden County specifically requested "[v]erification that all "CASH" [sic] deposits made to TD Bank account ending in #2144 are the funds of" Petitioner's son. R-3. When those verification did not materialize, Camden County correctly denied the application.

THEREFORE, it is on this 30th day of DECEMBER 2015

ORDERED:

That the Initial Decision is hereby ADOPTED.



Valerie Harr, Director
Division of Medical Assistance
and Health Services